

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

GEORGE BONGIORNO, Administrator of :  
the Estate of BRIAN BONGIORNO, :  
Plaintiff :

v. :

Civil Action No. 05-198 (Erie)

SSB MASCHINENBAUM GMBHM, :  
Defendant :

**PLAINTIFF'S REPLY TO DEFENDANT'S ANSWER  
AND AFFIRMATIVE DEFENSES**

AND NOW comes plaintiff by and through undersigned counsel and presents the following Reply to Defendant's Answer and Affirmative Defenses, a statement of which follows;

**FIRST AFFIRMATIVE DEFENSE**

The averions of this paragraph contain a conclusion of law to which no responsive pleading is required.

**SECOND AFFIRMATIVE DEFENSE**

Denied. This accident occurred on October 4<sup>th</sup>, 2004. Plaintiff filed suit on June 23<sup>rd</sup>, 2005. Said complaint was served upon defendant on October 17<sup>th</sup>, 2005.

**THIRD AFFIRMATIVE DEFENSE**

As plaintiff is a citizen of the United States and defendant is an entity organized and existing under the laws of the sovereign state of Germany, diversity jurisdiction exists pursuant to 29 PA C.S.A. §101 et seq. and defendant has sufficient contacts with the forum state to exercise personal jurisdiction.

**FOURTH AFFIRMATIVE DEFENSE**

Denied. Defendant chose to do business in Pennsylvania by selling the machinery in question to plaintiff's employer Accuride. As such, the transaction occurred in Pennsylvania as well as the accident. All pertinent witnesses and documents are primarily located in

Pennsylvania, thus venue is proper.

**FIFTH AFFIRMATIVE DEFENSE**

The averments of this paragraph contain a conclusion of law to which no responsive pleading is required.

**SIXTH AFFIRMATIVE DEFENSE**

The averments of this paragraph contain a conclusion of law to which no responsive pleading is required.

**SEVENTH AFFIRMATIVE DEFENSE**

After reasonable investigation plaintiff is without sufficient knowledge upon which to base a conclusion as to the truth or falsity of the averments contained in this paragraph. Therefore, said averments are denied and strict proof thereof is hereby demanded at trial.

**EIGHT AFFIRMATIVE DEFENSE**

After reasonable investigation plaintiff is without sufficient knowledge upon which to base a conclusion as to the truth or falsity of the averments contained in this paragraph. Therefore, said averments are denied and strict proof thereof is hereby demanded at trial.

**NINTH AFFIRMATIVE DEFENSE**

After reasonable investigation plaintiff is without sufficient knowledge upon which to base a conclusion as to the truth or falsity of the averments contained in this paragraph. Therefore, said averments are denied and strict proof thereof is hereby demanded at trial.

**TENTH AFFIRMATIVE DEFENSE**

After reasonable investigation plaintiff is without sufficient knowledge upon which to base a conclusion as to the truth or falsity of the averments contained in this paragraph. Therefore, said averments are denied and strict proof thereof is hereby demanded at trial.

**ELEVENTH AFFIRMATIVE DEFENSE**

After reasonable investigation plaintiff is without sufficient knowledge upon which to base a conclusion as to the truth or falsity of the averments contained in this paragraph. Therefore, said averments are denied and strict proof thereof is hereby demanded at trial.

**TWELVE AFFIRMATIVE DEFENSE**

The averments of this paragraph contain a conclusion of law to which no affirmative response is required.

**THIRTEENTH AFFIRMATIVE DEFENSE**

After reasonable investigation plaintiff is without sufficient knowledge upon which to base a conclusion as to the truth or falsity of the averments contained in this paragraph. Therefore, said averments are denied and strict proof thereof is hereby demanded at trial.

**FOURTEENTH AFFIRMATIVE DEFENSE**

After reasonable investigation plaintiff is without sufficient knowledge upon which to base a conclusion as to the truth or falsity of the averments contained in this paragraph. Therefore, said averments are denied and strict proof thereof is hereby demanded at trial.

**FIFTEENTH AFFIRMATIVE DEFENSE**

After reasonable investigation plaintiff is without sufficient knowledge upon which to base a conclusion as to the truth or falsity of the averments contained in this paragraph. Therefore, said averments are denied and strict proof thereof is hereby demanded at trial.

**SIXTEENTH AFFIRMATIVE DEFENSE**

After reasonable investigation plaintiff is without sufficient knowledge upon which to base a conclusion as to the truth or falsity of the averments contained in this paragraph. Therefore, said averments are denied and strict proof thereof is hereby demanded at trial.

**SEVENTEENTH AFFIRMATIVE DEFENSE**

The averments of this paragraph contain a conclusion of law to which no responsive pleading is required.

**EIGHTEENTH AFFIRMATIVE DEFENSE**

The averments of this paragraph contain a conclusion of law to which no responsive pleading is required.

**NINETEENTH AFFIRMATIVE DEFENSE**

Said averment states a conclusion of law to which no response is necessary. To the extent an answer is necessary, after reasonable investigation plaintiff is without sufficient knowledge upon which to base a conclusion as to the truth or falsity of the averments contained

in this paragraph. Therefore, said averments are denied and strict proof thereof is hereby demanded at trial.

**TWENTIETH AFFIRMATIVE DEFENSE**

The averments of this paragraph contain a conclusion of law to which no responsive pleading is required.

**TWENTY-FIRST AFFIRMATIVE DEFENSE**

After reasonable investigation plaintiff is without sufficient knowledge upon which to base a conclusion as to the truth or falsity of the averments contained in this paragraph. Therefore, said averments are denied and strict proof thereof is hereby demanded at trial.

**TWENTY-SECOND AFFIRMATIVE DEFENSE**

The averments of this paragraph contain a conclusion of law to which no responsive pleading is required.

**TWENTY-THIRD AFFIRMATIVE DEFENSE**

After reasonable investigation plaintiff is without sufficient knowledge upon which to base a conclusion as to the truth or falsity of the averments contained in this paragraph. Therefore, said averments are denied and strict proof thereof is hereby demanded at trial.

**TWENTY-FOURTH AFFIRMATIVE DEFENSE**

The averments of this paragraph contain a conclusion of law to which no responsive pleading is required.

**TWENTY-FIFTH AFFIRMATIVE DEFENSE**

After reasonable investigation plaintiff is without sufficient knowledge upon which to base a conclusion as to the truth or falsity of the averments contained in this paragraph. Therefore, said averments are denied and strict proof thereof is hereby demanded at trial.

**TWENTY-SIXTH AFFIRMATIVE DEFENSE**

After reasonable investigation plaintiff is without sufficient knowledge upon which to base a conclusion as to the truth or falsity of the averments contained in this paragraph. Therefore, said averments are denied and strict proof thereof is hereby demanded at trial.

**TWENTY-SEVENTH AFFIRMATIVE DEFENSE**

After reasonable investigation plaintiff is without sufficient knowledge upon which to base a conclusion as to the truth or falsity of the averments contained in this paragraph. Therefore, said averments are denied and strict proof thereof is hereby demanded at trial.

**TWENTY-EIGHT AFFIRMATIVE DEFENSE**

After reasonable investigation plaintiff is without sufficient knowledge upon which to base a conclusion as to the truth or falsity of the averments contained in this paragraph. Therefore, said averments are denied and strict proof thereof is hereby demanded at trial.

**TWENTY-NINTH AFFIRMATIVE DEFENSE**

After reasonable investigation plaintiff is without sufficient knowledge upon which to base a conclusion as to the truth or falsity of the averments contained in this paragraph. Therefore, said averments are denied and strict proof thereof is hereby demanded at trial.

**THIRTIETH AFFIRMATIVE DEFENSE**

The averments of this paragraph contain a conclusion of law to which no responsive pleading is required.

**THIRTY-FIRST AFFIRMATIVE DEFENSE**

The averments of this paragraph contain a conclusion of law to which no responsive pleading is required.

**THIRTY-SECOND AFFIRMATIVE DEFENSE**

The averments of this paragraph contain a conclusion of law to which no responsive pleading is required.

**THIRTY-THIRD AFFIRMATIVE DEFENSE**

After reasonable investigation plaintiff is without sufficient knowledge upon which to base a conclusion as to the truth or falsity of the averments contained in this paragraph. Therefore, said averments are denied and strict proof thereof is hereby demanded at trial.

**THIRTY-FOURTH AFFIRMATIVE DEFENSE**

The averments of this paragraph contain a conclusion of law to which no responsive pleading is required.

**THIRTY-FIFTH AFFIRMATIVE DEFENSE**

The averments of this paragraph contain a conclusion of law to which no responsive pleading is required.

**THIRTY-SIXTH AFFIRMATIVE DEFENSE**

The averments of this paragraph contain a conclusion of law to which no responsive pleading is required.

**THIRTY-SEVENTH AFFIRMATIVE DEFENSE**

The averments of this paragraph contain a conclusion of law to which no responsive pleading is required.

**THIRTY-EIGHT AFFIRMATIVE DEFENSE**

Plaintiff has not sought to recover punitive damages.

**THIRTY-NINTH AFFIRMATIVE DEFENSE**

The averments of this paragraph contain a conclusion of law to which no responsive pleading is required.

**FORTIETH AFFIRMATIVE DEFENSE**

It is admitted as a matter of law that the defendant would have the right to reserve its right to amend its answer and affirmative defenses if investigation, discovery and further information should warrant such amendment and further, to assert any applicable matters of law during the pendency of this action.

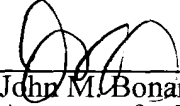
WHEREFORE, plaintiff continues to request This Honorable Court enter judgment in his favor in an amount in excess of \$75,000 plus interest and costs of suit.

**TRIAL BY JURY  
DEMANDED.**

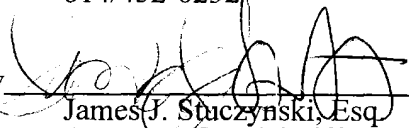
Respectfully submitted,

BERNARD STUCZYNSKI & BONANTI

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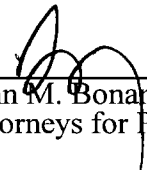
**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing Plaintiff's Reply to Defendant's Answer and Affirmative Defenses was served this 31<sup>st</sup> day of October, 2005, via first class U. S. Mail, postage prepaid, upon counsel of record as follows;

Attorney Dana Baiocco  
Jones & Day  
One Mellon Center  
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Pittsburgh, PA 15219

BERNARD STUCZYNSKI & BONANTI

By: \_\_\_\_\_

  
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